

TABLE OF CONTENTS

<u>Paragraph and Subject</u>	<u>Page</u>	<u>Date</u>	<u>Trans. No.</u>
<u>Chapter 2-100 Developing Factual Evidence</u>			
Table of Contents. . . . .	i	06/02	02/01
1 Purpose and Scope. . . . .	1	06/02	02/01
2 Requesting Evidence from the Claimant. . . . .	1	06/02	02/01
3 Sources of Evidence. . . . .	1	06/02	02/01
4 Advising the Claimant. . . . .	2	06/02	02/01
5 Requesting Evidence by Telephone. . . . .	3	06/02	02/01

## Part 2 - Claims

Developing Factual Evidence

---

1. Purpose and Scope. This chapter discusses the responsibility of the CE regarding collecting evidence.
2. Requesting Evidence from the Claimant. Upon review of the evidence presented in a claim, the CE should verify the presence of the necessary factual and medical evidence to support a claim made under the EEOICPA. When a deficiency in the evidence is identified, the CE must notify the claimant and request evidence necessary to overcome the deficiency. The CE may also assist the claimant with his or her claim by making requests for evidence from other sources.
3. Sources of Evidence. Decisions made in regard to a claim under the EEOICPA are based on the written evidence of record. Evidence may include forms, reports, letters, notes, personal statements, affidavits, or any other documentation pertaining to the claim. Most of the evidence required in regard to a compensation claim under the EEOICPA may be obtained from the following sources:
  - a. Claimant. Any claimant filing for benefits under the Act, is responsible for submitting the necessary evidence to allow the OWCP to adjudicate the claim.
  - b. Department of Energy (DOE). The DOE is the federal organization that had a business arrangement with employees, contractors, subcontractors, Atomic Weapon Employers, or Beryllium Vendors in regards to the U.S. Atomic Weapons Program. The DOE is required by the Act to provide DOL with information it possesses relevant to EEOICPA claims.
  - c. DOE Contractors & Subcontractors, Beryllium Vendors or Atomic Weapons Employers. During the course of its history producing atomic weapons, the DOE maintained relationships with a wide variety of external entities, such as contractors and subcontractors, Beryllium Vendors or Atomic Weapons Employers. In certain situations, it may be necessary to contact these entities in order to obtain information concerning a claim for compensation.

### 3. Sources of Evidence. (Continued)

d. The National Institute for Occupational Safety and Health (NIOSH). NIOSH is an agency within HHS that is responsible for estimating the radiation exposure by DOE employees, contractors, subcontractors or Atomic Weapons Employees during the production of atomic weapons. NIOSH presents dose reconstruction figures to the OWCP in order to allow a determination concerning the probability of causation between a claimed cancer and exposure at a covered facility. NIOSH also establishes the criteria for the probability of causation calculations.

e. Medical Sources. These sources include reports from doctors and hospitals providing examination or treatment to a covered employee. By presenting a signed EE-1 or EE-2 claim form under the EEOICPA, the claimant grants the OWCP authorization to collect medical documentation pertinent to his or her case.

f. Other Sources. The OWCP may receive evidence from other sources such as individuals completing employment affidavits, claimant representatives, and other federal agencies.

### 4. Advising the Claimant. When the CE determines that development is required, the claimant must be advised of the deficiency and afforded an opportunity to respond.

a. Initial 30-day Period. If the CE identifies a deficiency in the evidence that requires development, a letter is to be prepared which describes the specific deficiency and allows the claimant the opportunity to provide additional evidence. The letter must be tailored to the situation of each individual case; therefore the CE must ensure that s/he has reviewed in detail the evidence currently of file prior to writing the development letter.

b. Final Notice. If the claimant fails to submit the requested evidence within a 30-day period, in most instances, the CE should advise the claimant in writing that OWCP has not received the requested evidence and that he/she will be provided with additional time to submit the evidence. There will be instances in which 30 days will be sufficient time to allow for additional evidence. For

## Part 2 - Claims

Developing Factual Evidence

---

4. Advising the Claimant. (Continued)

example, if the claimant does not provide evidence that a covered condition is claimed, the CE must advise the claimant that a covered condition has not been claimed, and provide 30 days to claim such a condition. If the claimant does not subsequently indicate that a covered condition is claimed, the CE proceeds with a recommended decision. The CE must differentiate between "claiming" a covered condition, and providing evidence of such. If a covered condition is claimed, but the file is lacking medical documentation, the CE must allow a reasonable period of time to submit the appropriate evidence as discussed in Part 2-300.

c. Language. As the EEOICP is non-adversarial, the CE must be careful in the wording of the development letters regarding deadlines. In addition, since most of the employees were exposed many years ago, information is not always easily obtained. Thus the CE must be as flexible as possible.

5. Requesting Evidence by Telephone. The telephone may also be used to obtain evidence. Person to person contact is often successful in obtaining important information addressing particular concerns and diffusing contentious situations. Any use of the telephone is to be conducted in a professional and courteous manner.

a. Factual Information. Where it appears that the claimant has difficulty in written communication, the CE should contact him/her by telephone. In other instances, it may be expedient to use the telephone to either clarify an issue or request documentation by fax. However, when a telephone call is placed to obtain documentation, the CE should always be aware that if an immediate response is not obtained, a written follow-up is required.

b. Documenting Phone Calls. CEs should document all calls on a telephone message sheet and place the completed sheet in the case file. It is vital that a written summary be prepared immediately after each call while the information is still fresh in the mind of the CE.